

Applic. No. 09/745,563

Amdt. dated January 10, 2005

Reply to Office action of October 8, 2004

Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1-23 remain in the application. Claims 1, 10, and 23 have been amended. Claims 20-22 have been withdrawn from consideration. Withdrawn claim 20 has been amended to include subject matter that was added to claim 1.

In item 2 on page 2 of the Office action, claims 1-19 and 23 have been rejected as being fully anticipated by Rodi et al. (U.S. Patent No. 4,753,433) (hereinafter "Rodi") under 35 U.S.C. § 102.

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. The claims are patentable for the reasons set forth below. Support for the changes is found on page 14, lines 24-26 and page 15, line 10-16 of the specification.

It is once again noted that the corporate assignee of the Rodi reference is also the assignee of the instant application. Therefore, applicants are very familiar with the Rodi reference.

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Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1 and 23 call for, *inter alia*:

a third drive connected to the guide element for pivoting the guide element in and opposite to the sheet transport direction.

The Rodi reference discloses a scanning roller (13), which can be brought into contact with overlaps of imbricated sheets of a stream. A first drive (22) adjusts the height of the scanning roller. A second drive (32) produces a pressing force of the scanning roller (13) onto the overlaps of the imbricated sheets in the stream.

The reference does not show a third drive connected to the guide element for pivoting the guide element in and opposite to the sheet transport direction, as recited in claim 1 of the instant application. The Rodi reference discloses a first drive for adjusting the height of the scanning roller and a second drive for producing a pressing force of the scanning roller onto the imbricated sheets in the stream. Rodi does not disclose a third drive. This is contrary to the invention

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of the instant application as claimed, in which a third drive is connected to the guide element for pivoting the guide element in and opposite to the sheet transport direction.

Since claim 1 is believed to be allowable, dependent claims 2-19 are believed to be allowable as well.

Even though the dependent claims are believed to be allowable, the following comments pertain to the dependent claims.

It is noted that the Examiner did not consider the following remarks pertaining to the dependent claims from the response filed on June 14, 2004. The Rodi reference does not disclose the majority of the features of the dependent claims. Rodi does not disclose the features of claims 2-15 and 17-19. For example Rodi does not disclose that: the first and second drives are coupled to each other (claim 2), the first drive is a piston/cylinder unit (claim 3), etc.. Due to the amount of limitations that are disclosed in the dependent claims listed above, which are not disclosed in Rodi, they are not individually recited, instead, the Examiner is requested to carefully review these claims with regard to the rejection over Rodi. Because the Examiner did not consider the above-given remarks pertaining to the dependent claims, which are

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not anticipated by Rodi, it is requested that the finality of the Office action be withdrawn.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 20, or 23. Claims 1, 20, and 23 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-23 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

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Please charge any other fees which might be due with respect  
to Sections 1.16 and 1.17 to the Deposit Account of Lerner &  
Greenberg P.A., No. 12-1099.

Respectfully submitted,



For Applicant(s)

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AKD:cgm

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